

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MAURICE J. MCDONALD,

Plaintiff,

vs.

DR. SHEARING,

Defendant.

Case No. 13-cv-879-JPG-PMF

MEMORANDUM AND ORDER

This matter comes before the Court on plaintiff Maurice J. McDonald's motion for writ of mandamus (Doc. 21), which the Court construes as an appeal of Magistrate Judge Philip M. Frazier's show cause order (Doc. 19).

A district court reviewing a magistrate judge's decision on nondispositive issues should modify or set aside that decision if it is clearly erroneous or contrary to law. See Fed. R. Civ. P. 72(a); 28 U.S.C. § 636(b)(1)(A). Accordingly, the Court will affirm Judge Frazier's decision unless his factual findings are clearly erroneous or his legal conclusions are contrary to law. *Id.*

Although not entirely clear, McDonald's motion appears to allege that Judge Frazier is unlawfully requiring that McDonald pay a partial filing fee in this case. In support of this argument McDonald cites to 28 U.S.C. § 1915(g). This statute, however, simply prohibits a prisoner who has accumulate three "strikes" from filing a claim unless the prisoner alleges "imminent danger." 28 U.S.C. § 1915(g). Nothing in that statute prohibits the collection of a filing fee. Accordingly, the Court **DENIES** McDonald's appeal (Doc. 21) and **AFFIRMS** Judge Frazier's order (Doc. 19).

IT IS SO ORDERED.

DATED: February 25, 2014

s/ J. Phil Gilbert
J. PHIL GILBERT
DISTRICT JUDGE